

UNITED STATES DISTRICT COURT
CENTRAL DISTRICT OF CALIFORNIA

CIVIL MINUTES – GENERAL

Case No.: 2:23-cv-07215-CBM-BFM

Date: December 20, 2023

Title: Jaime Aviles, et al. v. Los Angeles Cnty. Dep’t of Children and Family Serv.

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Present: The Honorable Brianna Fuller Mircheff, United States Magistrate Judge

Christianna Howard
Deputy Clerk

N/A
Court Reporter / Recorder

Attorneys Present for Plaintiff:
N/A

Attorneys Present for Defendants:
N/A

**Proceedings: (In Chambers) Order to Show Cause Why Complaint
Should Not Be Dismissed**

Plaintiff Jaime Aviles filed a Complaint pursuant to 42 U.S.C. § 1983 on behalf of himself and his daughter, J.D.A.G. He named as Defendants the Los Angeles County Department of Children and Family Services (“DCFS”), Brandon T. Nichols, the Acting Director of DCFS, and Vera Gray, DCFS South County Supervisor. Plaintiff was granted leave to proceed *in forma pauperis* (without paying a filing fee). (ECF No. 5.)

On October 19, 2023, the Court issued an order telling Plaintiff that, because he is not an attorney, he cannot represent his daughter in this case. The Court said that J.D.A.G.’s claims would be dismissed unless an attorney was brought into the case to represent J.D.A.G., and set a deadline of October 19, 2023. (ECF No. 6.)

On October 25, 2023, the Court issued an order dismissing Plaintiff’s claims with leave to amend. The Court explained why relief could not be granted on his claims as they were written in the Complaint, and set a deadline of November 27, 2023, for filing of a First Amended Complaint. (ECF No. 7.)

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On November 6, 2023, Plaintiff filed four documents. (ECF Nos. 8-11.) The four filings include hundreds of pages of documents, at least some of which appear to be documents previously filed in state court. They appear to ask this Court to vacate the state court’s dependency order.

As the Court previously explained to Plaintiff, this Court cannot vacate or change the state court’s dependency orders, nor can it hear a claim that is essentially an “appeal” of a state order. (See ECF No. 7 at 3-5.)

As of today’s date, the Court has not received notice that J.D.A.G. is represented by counsel, nor has the Court received a First Amended Complaint from Plaintiff. The filings Plaintiff has submitted are not a First Amended Complaint, nor do they address the problems the Court described in the prior order. They do not provide a “short and plain statement” of Plaintiff’s claim—and they do not clarify if Plaintiff is claiming that his own constitutional rights were violated or only that his daughter’s rights were violated. His filings do not address how the individuals named as Defendants are responsible for any constitutional violations, nor do they explain concisely how any policy or custom of DCFS is responsible for any constitutional violation.

The case is subject to dismissal for failure to follow court orders. Because Plaintiff does not have an attorney, however, the Court will give him one more chance to comply.

The Court therefore orders Plaintiff to show cause—to explain—why his Complaint should not be dismissed **by January 22, 2024**. One way he can comply with this Order is to file a First Amended Complaint and have an attorney submit his or her appearance on behalf of J.D.A.G. by the deadline; those acts will be deemed compliance with this Order to Show Cause.

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Plaintiff is reminded that if he chooses to file a First Amended Complaint, it:

- Must bear the case number assigned in this case;
- Must be labeled “First Amended Complaint”;
- Must be complete in and of itself, meaning no incorporation by reference of the original Complaint or any other pleading, attachment, or document; and
- Must be signed and dated.

If Plaintiff no longer wishes to pursue this action, he can ask to dismiss the case pursuant to Federal Rule of Civil Procedure 41(a).

The Court Clerk is directed to provide Plaintiff with a blank Central District civil rights complaint form, and a blank notice of dismissal form.

Plaintiff is warned that, if he does not comply with this order within the deadline set by the Court (or seek an extension of that deadline, if he has a good reason to do so), **the Court will recommend to the assigned District Judge that the action be dismissed without further leave to amend.**

Plaintiff is advised that the Los Angeles Federal Pro Se Clinic offers help to people who have a case pending in this Court and do not have an attorney. The Clinic is located in the Roybal Federal Building and Courthouse, 255 East Temple Street, Suite 170, Los Angeles, California 90012, and operates **by**

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appointment only. You may make an appointment by calling the Clinic at (213) 385-2977, ext. 270, or by submitting an on-line request for services at the following site: <http://prose.cacd.uscourts.gov/los-angeles>.

IT IS SO ORDERED.

cc: Jaime Aviles, pro se

Initials of Preparer: ch